

Notice of Allowability

Application No.

10/023,099

Examiner

Tamthom N. Truong

Applicant(s)

HIMMELSBACH ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment & 1.132 declaration.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>attached</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Mary-Ellen M. Devlin on 06-29-04 and 07-01-04.

The application has been amended as follows:

- Claim 2: Delete compounds # (1), (6), (7), (11), (12), (13), (17), (18), and (19), then renumber the remaining compounds accordingly.
- Claim 3: Delete compounds # (1), (6), (7), (11), (12), (13), (17), (18), and (19), then renumber the remaining compounds accordingly.
- Claim 7: Delete compound (o).
- Claim 17: Line 1, after the word 'preventing', insert the phrase --further growth of tumors, --.
- Claim 18: Line 1, after the word 'preventing', insert the phrase --further growth of tumors, --.
- Claim 19: Line 1, after the word 'preventing', insert the phrase --further growth of tumors, --.

Allowable Subject Matter

Applicant's amendment of 04-12-04 has been fully considered. The deletion of "tautomer" in claims 1-7 has rendered moot the previous rejection of 112/2nd paragraph. Likewise, the deletion of "and diseases of the gastrointestinal tract, bile duct, and gall bladder" in claims 17-19 has obviated the previous rejection of 112/1st paragraph. The above Examiner's Amendment also further clarifies claims 17-19. Claims 2, 3, and 7 have been amended to exclude compounds having "diethylamino" which has been deleted from the definition of R_b.

Also, the deletion of "diethylamino" from the definition of R_b, and the 1.132 declaration have overcome the previous rejection of double patenting. Therefore, all previous rejections are withdrawn herein for the allowance of claims 1-19.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The closest prior art, WO 99/09016, provides a broad generic teaching seemingly encompasses the instant formula (I). However, on pages 8 & 9, WO'016 provides provisos that exclude compounds of the instant formula (I). Furthermore, in the definition of R₃, the term "carboalkoxy" means CO₂R", and not 'cyclopropylmethoxy', 'cylcobutyloxy', or 'cyclopentyloxy' as defined for the instant R_c.

An update search yields three references teaching substituted *amino-quinazoline* with side chains having

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specific moieties represented by variables R_a , R_b , and R_c .

However, said reference do not teach compounds with specific

groups of moieties as represented by the instant variables R_a ,

R_b , and R_c . Thus, they do not anticipate or render obvious the

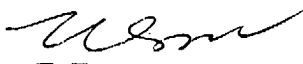
instant compounds.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

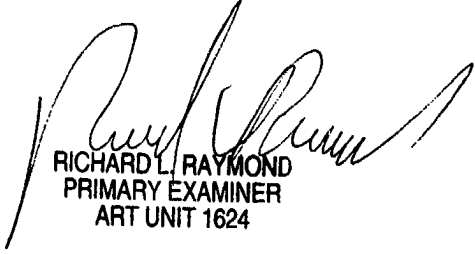
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamthom N. Truong whose telephone number is 571-272-0676. The examiner can normally be reached on M-F (~10 am ~ 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached at 571-272-0674. If you are unable to reach Dr. Shah within a 24 hour period, please contact James O. Wilson, Acting SPE of 1624, at 571-272-0661.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.


T. Truong

July 1, 2004


RICHARD L. RAYMOND
PRIMARY EXAMINER
ART UNIT 1624